

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Morgan L. Howard,

Defendant.

8:21-CR-202

**ORDER REGARDING
MAGISTRATE JUDGE'S
FINDINGS AND RECOMMENDATION**

This matter is before the Court on the Magistrate Judge's Findings and Recommendation on a Guilty Plea, [Filing 49](#), recommending that the Court accept the defendant's plea of guilty. There are no objections to the findings and recommendation. Nonetheless, the Court declines to adopt the findings and recommendation at this time.

Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [NECrimR 11.2\(d\)](#), the Court has conducted a de novo review of the record. Defendant has pleaded guilty to Counts I and II of the Information. Count I charges Defendant with violating [21 U.S.C. § 841\(a\)\(1\)](#) and (b)(1) by possessing with intent to distribute marijuana, a Schedule I controlled substance, and Count II charges that Defendant possessed a firearm in furtherance of a drug trafficking crime in violation of [18 U.S.C. § 924\(c\)\(1\)\(A\)](#). [Filing 42](#). As it is relevant here, the Court notes that under [21 U.S.C. § 841\(b\)\(1\)\(D\)](#), a defendant found guilty of possessing with intent to distribute less than 50 kilograms of marijuana faces "a term of supervised release of *at least* 2 years in addition to . . . imprisonment." (emphasis added). Thus, the defendant faces a minimum supervised release term of two years and a maximum of life for the crime charged in Count I of the Information.

The Petition to Enter a Plea of Guilty, [Filing 45 at 4](#), and Plea Agreement, [Filing 46 at 3](#), in this case both list the maximum term of supervised release for Count I as two years. As a result, the Magistrate Judge advised Defendant that he faced a maximum of two years of supervised release on Count I, rather than a minimum of two years. [Filing 60 at 4](#). Because Defendant was

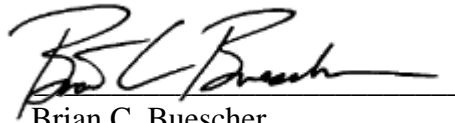
not informed of the correct minimum and maximum term of supervised release he faces as to Count I, it is the Court's intent to further inquire into this matter at the sentencing hearing set for September 21, 2022. [Filing 35](#). At that time, the Court will decide whether Defendant's plea of guilty should be accepted and whether the matter should directly proceed to sentencing. Counsel should be prepared to address this issue via interlineation immediately prior to the sentencing hearing.

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation on a Guilty Plea, [Filing 49](#), is held in abeyance;
2. This matter will be addressed at the sentencing hearing set for September 21, 2022; and
3. This case shall provisionally proceed to sentencing.

Dated this 22nd of July, 2022.

BY THE COURT:


Brian C. Buescher
United States District Judge